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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,622	10/24/2003	Jerome O. Vogedes	33692.03.3156	8796
23418	7590	11/01/2006	EXAMINER	
VEDDER PRICE KAUFMAN & KAMMHOLZ 222 N. LASALLE STREET CHICAGO, IL 60601			AFSHAR, KAMRAN	
			ART UNIT	PAPER NUMBER
			2617	

DATE MAILED: 11/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/692,622

Applicant(s)

VOGEDES ET AL.

Examiner

Kamran Afshar, 571-272-7796

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 September 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-24 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Claims 1, 5, 9, 14 and 20 recite word(s) "controllable ", and / or "capable of", and / or "operable", and /or "may" renders the claim(s) indefinite because the claim(s) 1, 5, 9, 14 and 20 are not clear as to what are positively claimed.
- Claims 2-4, 6-8, 10-13, 15-19 and 21-24 are rejected as they are directly and or indirectly depended on rejected claim(s).
- Claims 1, 6, 8, 14, 17, 19 and 20 recite word(s) "may ", and / or "may be" renders the claim(s) indefinite because the claim(s) 1, 5, 9, 14 and 20 are not clear as to what are positively claimed.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 2617

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-4, 9, 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Vegh (U.S. Patent 7,092,743 B2).

With respect to claim 1, Vegh discloses an apparatus (See e.g. 200 of Fig. 2, 300 of Fig. 3) for sender controllable modalities (See e.g. a vibration, a predetermined ring tone, one or more beeps, one or more flashing lights, user selectable preferences or setting, etc. Co. 2, Line 65 – Co. 3, Line 8) , the apparatus comprising: a priority command generator (See e.g. 230 of Fig. 2) capable of generating a priority command that indicates a level of priority as related to a communication command and that includes a modality alert command (See e.g. user defined criteria, call urgency, types of call, importance of call, etc. Co. 4, Lines 62- Co. 5, Line 6); a communication command generator capable of generating the communication command; and (See e.g. Co. 3, Lines 55-58) a transmitter (See e.g. 220 of Fig. 2) operably coupled to the priority command generator and the communication command generator such that the priority command and the communication command are transmitted (See e.g. Co. 3, Lines 42-50) to a recipient device wherein the recipient device may receive the modality alert command (See e.g. Co. 4, Lines 42-50) within the priority command (See e.g. Co. 3, Lines 55-58, Co. 3, Line 60 – Co. 4, Line 2, Co. 5, Lines 12-22).

Regarding claim 2, Vegh discloses an input device operably coupled to the communication command generator such that the communication command generator generates the communication command in response to an input communication command (See e.g. 270 of Fig. 2, Co. 5, Lines 12-22).

Regarding claim 3, Vegh discloses the input device operable coupled to the priority command generator such that the priority command generator generates the modality alert command in response to an input priority command (See 270 , 230, 250 of Fig. 2, Co. 5, Lines 12-22).

Regarding claim 4, Vegh discloses the modality alert command includes instructions such that an alert is at least one of the following: a vibration, a predetermined ring tone, one or more beeps, one or more flashing lights, a wake-up command and a defined output multi-modal output modality setting (See e.g. different tunes, different rings, audio alarm, vibrating at different frequency, light blink at different rate, etc. Co. 5, Lines 12-22).

Regarding claim 9, Vegh discloses a method for sender controllable modalities See e.g. a vibration, a predetermined ring tone, one or more beeps, one or more flashing lights, user selectable preferences or setting, etc. Co. 2, Line 65 – Co. 3, Line 8) in a sender device (See e.g. 200 of Fig. 2, 300 of Fig. 3), the method comprising: generating a communication command (See e.g. Co. 3, Lines 55-58); generating a priority command that indicates a level of priority as related to the communication command and including a modality alert command (See e.g. Co. 3, Lines 42-50), wherein the priority command relates to the communication command (See e.g. user defined criteria, call urgency, types of call, importance of call, etc. Co. 4, Lines 62- Co. 5, Line 6); and transmitting (See e.g. Co. 3, Lines 42-50) the communication command (See e.g. Co. 4, Lines 42-50) and the priority command to a recipient device (See e.g. Co. 3, Lines 55-58, Co. 3, Line 60 – Co. 4, Line 2, Co. 5, Lines 12-22).

Regarding claim 11, Vegh discloses the modality alert command includes at least one of the following: a vibratory alert, a ring-tone, a wake-up command, a text-based alert, an illumination alert and a defined output multi-modal output modality setting (See e.g. different tunes, different rings, audio alarm, vibrating at different frequency, light blink at different rate, etc. Co. 5, Lines 12-22).

Regarding claim 12, Vegh discloses the communication command may be at least one of the following: a caller identification, a text message, an auditory message and a visual message (See e.g. different tunes, different rings, audio alarm, vibrating at different frequency, light blink at different rate, etc. Co. 5, Lines 12-22).

Regarding claim 13, Vegh discloses the step of transmitting the communication command and the priority command to the recipient device further includes transmitting the communication command and the priority command to an intermediate server prior to the communication command and the priority command being transmitted to the recipient device (See e.g. 110, 120, 125, 165 of Fig. 2).

***Allowable Subject Matter***

6. Upon proper overcome of the rejection as discussed above in items 2-3, Claims 5-8, 14-24 would be allowed.

The following is an examiner's statement of reasons for allowance: 5-8, 14-24.

With respect to claim 5, the prior art of record fails to disclose singly or in combination or render obvious that the apparatus comprising: a notification system having an internal alert modality setting; a receiver coupled to the notification system, wherein the receiver receives a communication command and a priority command that indicates a level of priority as related to the communication command and from a sender device; a verification module coupled to the receiver such that the verification module verifies the sender device and the priority command so that if the sender device is verified and the priority command is verified, a modality alert command is provided to the notification system to override the internal modality setting, wherein the modality alert command is disposed within a notification command; and a notification device coupled to the notification system such that in response to the notification command, the notification device provides an alert in accordance with the modality alert command.

With respect to claim 14, the prior art of record fails to disclose singly or in combination or render obvious that the method comprising: receiving a communication command and a priority command that indicates a level of priority as related to the communication command and from a sender device; verifying the sender device such that the sender device overrides an internal modality setting; if the sender device is verified, verifying the priority command such that the priority command has a priority level to override the internal modality setting; and if the sender device is verified and the priority command is verified, overriding the internal modality setting.

With respect to claim 20, the prior art of record fails to disclose singly or in combination or render obvious that the recipient device including: a notification system having an internal alert modality setting; a receiver coupled to the notification system, wherein the receiver receives the communication command

Art Unit: 2617

and the priority command from a sender device; a verification module coupled to the receiver such that the verification module verifies the sender device and the priority command so that if the sender device is verified and the priority command is verified, a modality alert command is provided to the notification system to override the internal modality setting, wherein the modality alert command is disposed within a notification command; and a notification device coupled to the notification system such that in response to the notification command, the notification device provides an alert in accordance with the modality alert command.

7. Claims 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and upon proper overcome of the rejection as discussed above in items 2-3.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a) Horvitz (U.S. Pub. No.: 2004/0128359 A1).
- b) Cloutier (U.S. Patent 6,459,913 B2).
- c) Helferich (U.S. Patent 6,233,430 B1).
- d) Harris (U.S. Patent 6,314,306 B1).


Any inquiry concerning this communication or earlier communication from the examiner should be directed to Kamran Afshar whose telephone number is (571) 272-7796. The examiner can be reached on Monday-Friday.

If attempts to reach the examiner by the telephone are unsuccessful, the examiner's supervisor, **Feild, Joseph** can be reached @ (571) 272-4090. The fax number for the organization where this application or proceeding is assigned is **571-273-8300** for all communications.

Art Unit: 2617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Kamran Afshar

  
JOSEPH FEILD  
SUPERVISORY PATENT EXAMINER